STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of MAURICEYIA PATRICE NEVITT, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner -Appellee,

v

LORETTA NEVITT,

Respondent -Appellant.

UNPUBLISHED
January 19, 2001

No. 222232
Wayne Circuit Court
Family Division
LC No. 90-285061

Before: Smolenski, P.J., and Doctoroff and Wilder, JJ.

PER CURIAM.

Respondent Loretta Nevitt appeals by right from the family court's order terminating her parental rights to a minor child under MCL 712A.19b(3)(c)(i) ("[t]he parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds . . . [that] the conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age"), MCL 712A.19b(3)(g); MSA 27.3178(598.19b)(3)(g) ("[t]he parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age"), and MCL 712A.19b(3)(j); MSA 27.3178(598.19b)(3)(j) ("[t]here is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent").

This Court reviews for clear error a family court's finding that a statutory basis for termination has been met. MCR 5.974(I); *In re Trejo Minors*, ___ Mich ___ (Docket No. 112528, decided 7/5/2000), slip op, p 28. Once a statutory basis has been proven by clear and convincing evidence, see MCL 712A.19b(3); MSA 27.3178(598.19b)(3), the court must terminate parental rights unless the court finds that termination is clearly not in the best interests of the child. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *Trejo*, *supra* at 27. A family court's finding on the best interests prong is also reviewed by this Court for clear error. *Id*. at 28.

Here, the family court did not clearly err in finding (1) that MCL 712A.19b(3)(c)(i); MSA 27.3178(598.19b)(3)(c)(i) was established by clear and convincing evidence, and (2) that termination was in the best interests of the child. Again, MCL 712A.19b(3)(c)(i); MSA 27.3178(598.19b)(3)(c)(i) states that termination is warranted if:

> [t]he parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds . . . [that] the conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

Here, the "condition[] that led to the adjudication" (on February 5, 1997) was respondent's inability to care for her children because of drug abuse and mental health problems. Subsequently, in December 1997, respondent provided a drug screen that showed positive results for marijuana and cocaine. Moreover, a caseworker for petitioner testified at a March 19, 1998 hearing that respondent had been terminated from a drug treatment program for poor attendance and had been failing to report to her probation officer. Additionally, respondent was hospitalized for a week in February 1998 for psychological problems, and respondent failed to complete psychological counseling after it was offered on August 14, 1998 because she was incarcerated in September 1998. Respondent was jailed for approximately six months in 1997, for approximately one month in the middle of 1998, and for approximately five months in 1998-1999. Accordingly, respondent was unable to demonstrate during these periods that she was capable of being drug-free and mentally competent while not incarcerated. Under the totality of this evidence, the trial court did not clearly err in determining, on March 29, 1999, that MCL 712A.19b(3)(c)(i); MSA 27.3178(598.19b)(3)(c)(i) was established by clear and convincing evidence and that termination was in the best interests of the child. Because only one statutory basis is required in order to terminate parental rights, see *Trejo, supra* at 27, and *In re Huisman*, 230 Mich App 372, 384-385; 584 NW2d 349 (1998), rejected on other grounds by *Trejo, supra* at 13, we need not decide whether termination was also proper under the additional grounds cited by the court.

Furthermore, and contrary to respondent's assertion, the family court did not err in concluding that petitioner made reasonable efforts to reunite the family. See MCL 712A.18f; MSA 27.3178(598.18f). First, petitioner did formulate an agreement regarding the steps that respondent needed to take to regain custody of her child. Second, while certain counseling services were offered somewhat late, they nevertheless *were* offered (indeed, a counseling referral was made on August 14, 1998), and respondent, instead of taking advantage of the services, returned yet again to incarceration, in September 1998.

The trial court did not err in terminating respondent's parental rights.

Affirmed.

/s/ Michael R. Smolenski
/s/ Martin M. Doctoroff
/s/ Kurtis T. Wilder